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HOUSE BILL NO. 1619

Offered January 13, 1999

A BILL to amend and reenact §§ 46.2-1600, 46.2-1602, 46.2-1603, and 46.2-1605 of the Code of Virginia, relating to branded titles for certain vehicles; obtaining titles for certain stolen vehicles.

Patron—Robinson

Referred to Committee on Transportation

Be it enacted by the General Assembly of Virginia:

1. That §§ 46.2-1600, 46.2-1602, 46.2-1603, and 46.2-1605 of the Code of Virginia are amended and reenacted as follows:

§ 46.2-1600. Definitions.

The following words, terms, and phrases when used in this chapter shall have the meaning ascribed to them in this section, except where the context indicates otherwise:

"Actual cash value," as applied to a vehicle, means the retail cash value of the vehicle prior to damage as determined, using recognized evaluation sources, either (i) by an insurance company responsible for paying a claim or (ii) if no insurance company is responsible therefor, by the Department.

"Current salvage value," as applied to a vehicle, means (i) the salvage value of the vehicle, as determined by the insurer responsible for paying the claim, or (ii) if no insurance company is responsible therefor, twenty-five percent of the actual cash value.

"Demolisher" means any person whose business is to crush, flatten, or otherwise reduce a vehicle to a state where it can no longer be considered a vehicle.

"Diminished value compensation" means the amount of compensation that an insurance company pays to a third party vehicle owner, in addition to the cost of repairs, for the reduced value of a vehicle due to damage.

"Independent appraisal firm" means any business providing cost estimates for the repair of damaged motor vehicles for insurance purposes and having all required business licenses and zoning approvals. This term shall not include insurance companies that provide the same service, nor shall any such entity be a rebuilder or affiliated with a rebuilder.

"Late model vehicle" means the current-year model of a vehicle and the five preceding model years, or any vehicle whose actual cash value is determined to have been at least \$5,000 prior to being damaged.

"Licensee" means any person who is licensed or is required to be licensed under this chapter.

"Nonrepairable certificate" means a document of ownership issued by the Department for any nonrepairable vehicle upon surrender or cancellation of the vehicle's title and registration or salvage certificate.

"Nonrepairable vehicle" means (i) any late model vehicle that has been damaged and whose estimated cost of repair exceeds ninety percent of its actual cash value prior to damage or (ii) any vehicle which has been determined to be nonrepairable by its insurer or owner, and for which a nonrepairable certificate has been issued or applied for, or (iii) any other vehicle which has been damaged, is inoperable, and has no value except for use as parts and scrap metal.

"Rebuilder" means any person who acquires and repairs, for use on the public highways, two or more salvage vehicles within a twelve-month period.

"Rebuilt vehicle" means (i) any salvage vehicle that has been damaged as a result of collision, fire, flood, accident, trespass, or any other occurrence and has been repaired and the estimated cost of repair exceeded seventy-five percent of its actual cash value, for use on the public highways or (ii) any late model vehicle which has been repaired and the estimated cost of repair exceeded seventy-five percent of its actual cash value, excluding the cost to repair damage to the engine, transmission, or drive axle assembly.

"Repaired vehicle" means any salvage vehicle that has been damaged as a result of collision, fire, flood, accident, trespass, or any other occurrence and has been repaired for use on a public highway, and the estimated cost of repairs equals at least twenty-five percent of its actual cash value but is less than fifty percent of its actual cash value.

"Salvage certificate" means a document of ownership issued by the Department for any salvage vehicle upon surrender or cancellation of the vehicle's title and registration.

"Salvage dealer" means any person who acquires any vehicle for the purpose of reselling any parts thereof.

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60 "Salvage pool" means any person providing a storage service for salvage vehicles or nonrepairable
61 vehicles who either displays the vehicles for resale or solicits bids for the sale of salvage vehicles or
62 nonrepairable vehicles, but this definition shall not apply to an insurance company which stores and
63 displays fewer than 100 salvage vehicles and nonrepairable vehicles in one location; however, any two
64 or more insurance companies who display salvage and nonrepairable vehicles for resale, using the same
65 facilities, shall be considered a salvage pool.

66 "Salvage vehicle" means (i) any late model vehicle which has been (a) acquired by an insurance
67 company as a part of the claims process or (b) damaged as a result of collision, fire, flood, accident,
68 trespass, or any other occurrence to such an extent that its estimated cost of repair, excluding charges
69 for towing, storage, and temporary replacement/rental vehicle or payment for diminished value
70 compensation, would exceed its actual cash value less its current salvage value; ~~(ii) any stolen vehicle~~
71 ~~an insurance company has acquired as a part of the claims process;~~ or ~~(iii ii)~~ any other vehicle which is
72 determined to be a salvage vehicle by its owner or an insurance company by applying for a salvage
73 certificate for the vehicle, provided that such vehicle is not a nonrepairable vehicle.

74 "Scrap metal processor" means any person who is engaged in the business of processing vehicles into
75 scrap for remelting purposes who, from a fixed location, utilizes machinery and equipment for
76 processing and manufacturing ferrous and nonferrous metallic scrap into prepared grades, and whose
77 principal product is metallic scrap.

78 "Vehicle removal operator" means any person who acquires a vehicle for the purpose of reselling it
79 to a demolisher, scrap metal processor, or salvage dealer.

80 § 46.2-1602. Certain sales prohibited; exceptions.

81 A. It shall be unlawful:

82 1. For any scrap metal processor to sell a vehicle or vehicle components or parts;

83 2. For any salvage pool to sell a salvage vehicle to any person who is not a scrap metal processor or
84 licensed as a salvage dealer, rebuilder, demolisher, motor vehicle dealer, or vehicle removal operator;

85 3. For any person to sell a nonrepairable vehicle to any person who is not a scrap metal processor or
86 licensed as a salvage dealer, demolisher, or vehicle removal operator; or

87 4. For any person to sell a *repaired vehicle* or rebuilt vehicle without first having disclosed the fact
88 that the vehicle is a *repaired vehicle* or a rebuilt vehicle to the buyer in writing on a form prescribed by
89 the Commissioner.

90 B. Notwithstanding the provisions of subsection A of this section, it shall not be unlawful:

91 1. For a salvage dealer to sell vehicle components or parts to unlicensed persons; or

92 2. For an individual to dispose of a salvage vehicle acquired or retained for his own use when it has
93 been acquired or retained and used in good faith and not for the purpose of avoiding the provisions of
94 this chapter.

95 § 46.2-1603. Obtaining salvage certificate; obtaining titles for certain stolen vehicles.

96 A. The owner of any vehicle titled in the Commonwealth may declare such vehicle to be a salvage
97 vehicle and apply to the Department and obtain a salvage certificate for that vehicle.

98 B. Every insurance company or its authorized agent shall apply to the Department and obtain a
99 salvage certificate for ~~(i)~~ each late model vehicle acquired by the insurance company as the result of the
100 claims process if such vehicle is titled in the Commonwealth and is a salvage vehicle ~~and~~ ~~(ii) each~~
101 ~~stolen vehicle acquired as a result of the claims process.~~ The application shall be accompanied by the
102 vehicle's title certificate and shall contain a description of the damage to the salvage vehicle and an
103 itemized estimate of the cost of repairs up to the point where a nonrepairable certificate would be
104 issued. Application for the salvage certificate shall be made within fifteen days after payment has been
105 made to the owner, lienholder, or both.

106 C. Every insurance company or its authorized agent shall notify the Department of each late model
107 vehicle titled in the Commonwealth on which a claim for damage to the vehicle has been paid by the
108 insurance company if (i) the estimated cost of repair exceeds seventy-five percent of actual cash value of
109 the vehicle and (ii) the vehicle is to be retained by its owner. No such notification shall be required for
110 a vehicle when a supplemental claim has been paid for the cost of repairs to the engine, transmission, or
111 drive axle assembly if such components are replaced by components of like kind and quality.

112 D. Every owner of an uninsured or self-insured late model vehicle which sustains damage to such an
113 extent that the estimated cost of repairs exceeds seventy-five percent of the actual cash value of the
114 vehicle prior to being damaged shall similarly apply for and obtain a salvage certificate. If no estimated
115 cost of repairs is available from an insurance company, the owner of the vehicle may provide an
116 estimate from an independent appraisal firm. Any such estimate from an independent appraisal firm shall
117 be verified by the Department in such a manner as may be provided for by Department regulations.

118 E. The fee for issuance of the salvage certificate shall be ten dollars. If a salvage vehicle is sold after
119 a salvage certificate has been issued, the owner of the salvage vehicle shall make proper assignment to
120 the purchaser.

121 F. The Department, upon receipt of an application for a salvage certificate for a vehicle titled in the

Commonwealth, or upon receipt of notification from an insurance company or its authorized agent as provided in subsection C of this section, shall cause the title of such vehicle to be cancelled and the appropriate certificate issued to the vehicle's owner.

G. All provisions of this Code applicable to a motor vehicle certificate of title shall apply, mutatis mutandis, to a salvage certificate, except that no registration or license plates shall be issued for the vehicle described in the salvage certificate. A vehicle for which a salvage certificate has been issued may be retitled for use on the highways in accordance with the provisions of § 46.2-1605.

H. *In the case of a stolen vehicle acquired as the result of the claims process, every insurance company or its authorized agent shall apply to the Department and obtain a title for the vehicle. If the vehicle is recovered and has been damaged as a result of collision, fire, flood, accident, trespass, or any other occurrence to such an extent that its estimated cost of repair, excluding charges for towing, storage, and temporary replacement/rental vehicle or payment for diminished value compensation would exceed twenty-five percent of its actual cash value, the insurance company or its authorized agent shall apply to the Department and obtain a salvage certificate for the vehicle.*

§ 46.2-1605. Vehicles repaired or rebuilt for highway use; examinations; branding of titles.

Each salvage vehicle that has been repaired or rebuilt for use on the highways shall be examined by the Department prior to the issuance of a title for the vehicle. The examination shall include a review of all documentation for the parts and labor used for the repair of the salvage vehicle and a verification of the vehicle's identification number, confidential number, and odometer reading. The Commissioner shall ensure that, in scheduling and performing examinations of salvage vehicles under this section, single vehicles owned by private owner-operators are afforded no lower priority than examinations of vehicles owned by motor vehicle dealers, salvage dealers, demolishers, rebuilders, salvage pools, or vehicle removal operators. The Commissioner may charge an appropriate fee, not to exceed twenty-five dollars per vehicle, for the examination of repaired ~~and~~ or rebuilt vehicles.

Any salvage vehicle whose vehicle identification number or confidential number has been altered, is missing, or appears to have been tampered with may be impounded by the Department until completion of an investigation by the Department. The vehicle may not be moved, sold, or tampered with until the completion of this investigation. Upon completion of an investigation by the Department, if the vehicle identification number is found to be missing or altered, a new vehicle identification number may be issued by the Department. If the vehicle is found to be a stolen vehicle and its owner can be determined, the vehicle shall be returned to him. If the owner cannot be determined or located and the person seeking to title the vehicle has been convicted of a violation of § 46.2-1074 or § 46.2-1075, the vehicle shall be deemed forfeited to the Commonwealth. Each such vehicle shall be sold at public auction and the proceeds thereof, after satisfaction of any liens, returned to the state treasury for use by the Department. If the Department's examination of a repaired or rebuilt salvage vehicle indicates no irregularities, a title and registration may be issued for the vehicle upon application therefor to the Department by the owner of the salvage vehicle. If the vehicle is a rebuilt vehicle, the title issued by the Department and any subsequent title thereafter issued for the vehicle shall be permanently branded to indicate that it is a rebuilt vehicle. ~~If the repaired vehicle is not a rebuilt vehicle, the Department shall issue a certificate of title without branding.~~ All rebuilt vehicles shall be subject to all safety equipment requirements provided by law. No title or registration shall be issued by the Department for any vehicle for which a nonrepairable certificate has ever been issued.

If the vehicle is a repaired vehicle, the title issued by the Department and any subsequent title thereafter issued for the vehicle shall be permanently branded with a brand prescribed by the Commissioner to indicate that it is a repaired vehicle. All repaired vehicles shall be subject to all safety equipment requirements provided by law.